



INSIGHTS

107th Congress

May 7, 2002

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INSIGHTS is prepared expressly for the Department of Energy's Office of Federal Energy Management Programs (FEMP). The purpose of ***INSIGHTS*** is to provide FEMP management staff with timely information on legislative activities relevant to the program. ***INSIGHTS*** is prepared for FEMP by Energetics, Incorporated, (202) 479-2748.

I. WEEKLY SUMMARY

HOUSE

Actions of interest in the House this week include:

- Mark up of a potential \$30 billion FY 2002 Supplemental Appropriations bill to cover reconstruction of New York City, Homeland Security with emphasis on the security of Federal facilities and transportation-related activities and infrastructure nationwide, and related overseas war activities.

SENATE

Actions of interest in the Senate this week include:

- Senate debate and vote on the conference report for the Farm bill, which includes renewable energy provisions.
- Confirmation hearing for Guy Caruso to serve as the new Administrator of the Energy Information Administration. Mr. Caruso is the former Director of the National Energy Strategy Project and the Executive Director of the Strategic Energy Initiative, Center for Strategic and International Studies.

CONFERENCE COMMITTEES/VOTES

Comprehensive Energy Legislation Senate Majority Leader Tom Daschle (D/SD) and Minority Leader Trent Lott (R/MS) have agreed to eight members each representing the Democrats and Republicans and one Independent, James Jeffords (I/VT) to serve on the conference committee. The House is expected to announce conferees next week. No schedule has been announced for negotiators to meet on the bill, *H.R. 4*; the Senate bill, *S. 517* was passed by the Senate as an amendment to *H.R. 4*. Senate Conferees include:

DEMOCRATS	COMMITTEE/SUBCOMMITTEE	REPUBLICANS	COMMITTEES /SUBCOMMITTEES
Jeff Bingaman (NM)	Committee on Energy and Natural Resources, <i>Chair</i>	Frank Murkowski (AK)	Committee on Energy and Natural Resources, <i>Ranking Minority Member</i>
John Kerry (MA)	Subcommittee on Oceans, Atmosphere, and Fisheries (Committee on Commerce, Science and Transportation), <i>Chair</i>	Pete Domenici (NM)	Subcommittee on Energy and Water Development (Committee on Appropriations) and Committee on the Budget, <i>Ranking Minority Member for both committees</i>
John Breaux (LA) *	Committee on Finance, <i>Member</i>	Trent Lott (MS)	<i>Minority Leader</i> ; Committees on Finance and Commerce, Science, and Transportation, <i>Member</i>
Max Baucus (MT)	Committee on Finance, <i>Chair</i>	Don Nickles (OK)	<i>Minority Whip</i> ; Subcommittee on Energy(Committee on Energy and Natural Resources), <i>Ranking</i>

DEMOCRATS	COMMITTEE/SUBCOMMITTEE	REPUBLICANS	COMMITTEES /SUBCOMMITTEES
			<i>Minority Member</i>
Joe Lieberman (CT)	Government Affairs, <i>Chair</i>	Larry Craig (ID)	Subcommittee on Public Lands and Forests (Committee on Energy and Natural Resources) <i>Ranking Minority Member</i>
Harry Reid (NV)	Majority Whip; Subcommittee on Energy and Water Development (Committee on Appropriations), <i>Chair</i>	Craig Thomas (WY)	Subcommittee on National Parks (Committee on Energy and Natural Resources, <i>Ranking Minority Member</i> ; Committee on Finance, <i>Member</i>
Fritz Hollings (SC)	Committee on Commerce, Science, and Transportation, <i>Chair</i>	Charles Grassley (IO)	Committee on Finance, <i>Ranking Minority Member</i> ; Committee on the Budget, <i>Member</i>
John Rockefeller (WV)	Committees on Finance and Commerce, Science, and Transportation; <i>Member</i>	Ben Nighthorse Campbell	Committee on Energy and Natural Resources, <i>Member</i>
James Jeffords (I)	Committee on Environment and Public Works, <i>Chair</i> ; Committee on Finance, <i>Member</i>		

* Senator Breaux may vote only on the tax-related provisions of the energy bill.

Renewable Energy – Last week, the House approved *Conference Report H.R. 107 - Unnumbered (HR. 2646) - Agriculture, Conservation, and Rural Enhancement Act of 2001*. Opposition by some Republican members to unrelated issues may prevent passage of the conference report. Majority Leader Tom Daschle (D/SD) has agreed to 12 hours of debate this week before scheduling a vote. The conference report has the Administration's support. Key renewable provisions include the following:

- Directs Federal agencies to acquire bio-based products when practicable; a list of products will be developed by the Department of Agriculture; authorizes \$6 million in funding.
- Establishes a grant program for educating government and private sector consumers about biodiesel fuel benefits; authorizes \$5 million in funding.
- Encourages farmers to purchase renewable energy systems and implement energy efficiency improvements through the establishment of a loan guarantee and grant program; authorizes \$115 million funding.
- Continues the *Biomass Research and Development Act*, which promotes renewable energy technology development; authorizes \$75 million in funding.
- Funds producers of bioenergy who purchase agricultural commodities in order to encourage expanded production of ethanol and biodiesel fuels; authorizes 4405 million.

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II. COMMITTEE ACTIVITY

HOUSE

No activities of interest to report.

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SENATE

Gasoline Price Volatility The Subcommittee on Investigations of the Committee on Government Affairs held a two-part hearing on April 30 and May 2, 2002, to discuss factors that contribute to the volatility of gasoline prices. Five major gasoline producers from around the country argued that **in order to effectively address volatility issues, the Federal Government must take steps to stem the proliferation of boutique fuels, eliminate the ethanol mandate, and promote a free market.** David C. Reeves, President of North America Products Group at ChevronTexaco Corporation, said that, “the size of a Congressionally – imposed ethanol mandate – whether newly enacted as part of the pending energy bill, or as a de facto result of the existing oxygen mandate when MTBE is removed – will impact fuel formulations, require design of new refinery and marketing facility modifications, and present new logistics, transportation, and distribution challenges.” He claimed that while the government should set performance-based standards, it is important to “limit, minimize, and eliminate unneeded mandates and subsidies,” associated with the use of renewable fuels. Bob Routs, President and CEO of Shell Oil Products US, requested that market players look for ways to “streamline the permitting and construction of new and expanded facilities used in the production, transportation and distribution of fuels.” **A second panel of industry experts testified on May 2; the panel included economists and government representatives. Panelists pointed to the concentration of market power, price fixing and signaling, lack of gasoline market information to help compose Federal and state energy policy, and the lack of alternative fuel use as the main reasons for gasoline price volatility.** Economists R. Preston McAfee from the University of Texas and Dr. Justine Hastings from Dartmouth College testified that the increased use of boutique fuels increases the problem of fuel storage. Dr. Hastings said that, “by proliferating fuel types, the amount of storage needed to prevent significant price spikes rises... By dividing the nation into many smaller, separate fuel types, we increase the costs of storage and reduce its effectiveness.” Dr. Philip K. Verleger, Jr., President of PK Verleger, LLC, said that the oxygenate requirement passed by Congress in 1990 to improve air quality has “complicated gasoline distribution and contributed to higher gasoline prices.” He also charged that, “government regulations threaten to impose increased costs for removing sulfur from gasoline and diesel fuel. The prospect of higher, potentially unrecoverable costs has prompted the exit of those companies most able to meet consumer demands. These firms — the integrated majors — will continue to depart refining, leaving the United States short of the transportation fuels it requires.”

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III. NEW LEGISLATION

HOUSE

Number	Short title	Date	Sponsor	Status
<i>H.R. 4227</i>	<i>No Short Title</i>	April 15, 2002	Jerry Moran (R/KS)	Referred to the Committee on Agriculture
	Key Provisions:	Codifies and extends the current Department of Agriculture program to promote the use of agricultural commodities by bioenergy producers, particularly small-scale producers, to produce ethanol and biodiesel fuels. Through fiscal year 2011, cash payments not to exceed \$200 million can be made to producers to encourage increased purchases of eligible agricultural commodities for the purpose of expanding existing production of bioenergy and supporting the construction of new production capacity.		

SENATE

Number	Short title	Date	Sponsor	Status																						
H.R. 4	Key Provisions:	<u>Energy Management Requirements</u>																								
		Requires that the energy consumption per gross square foot of Federal buildings in fiscal years 2002 through 2011 is reduced by two percent each year compared to the requirements specified for 2000:																								
		<table><tr><th>Fiscal Year</th><th>Percentage Reduction</th></tr><tr><td>FY 2002</td><td>2</td></tr><tr><td>FY 2003</td><td>4</td></tr><tr><td>FY 2004</td><td>6</td></tr><tr><td>FY 2005</td><td>8</td></tr><tr><td>FY 2006</td><td>10</td></tr><tr><td>FY 2007</td><td>12</td></tr><tr><td>FY 2008</td><td>14</td></tr><tr><td>FY 2009</td><td>16</td></tr><tr><td>FY 2010</td><td>18</td></tr><tr><td>FY 2011</td><td>20</td></tr></table>			Fiscal Year	Percentage Reduction	FY 2002	2	FY 2003	4	FY 2004	6	FY 2005	8	FY 2006	10	FY 2007	12	FY 2008	14	FY 2009	16	FY 2010	18	FY 2011	20
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Requires that by December 31, 2010, the Secretary of Energy shall review and provide recommendations for the energy performance requirements for the calendar years 2012 through 2021. Agencies may exclude from the energy performance requirement any buildings if:																										
<ul style="list-style-type: none">• compliance with requirements may be impractical;• agency has completed and submitted all Federally required energy management reports;• agency has achieved compliance with the energy efficiency requirements of this Act, the <i>Energy Policy Act of 1992</i>, executive orders, and other Federal law; and																										

Number	Short title	Date	Sponsor	Status
	<ul style="list-style-type: none"> agency has implemented all practicable, life-cycle cost-effective projects for Federal buildings to be excluded. <p><u>Energy Use Measurement and Accountability</u></p> <p>Requires that all Federal buildings shall be metered or submetered. Requires that each agency use advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly electricity consumption of Federal buildings. Requires that such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy managers.</p> <p>Requires that the Secretary of Energy, in consultation with the Department of Defense, the General Services Administration, and representatives from the metering, utility, energy services, and energy efficiency industries, national laboratories, universities, and Federal facility energy managers establish guidelines less than 180 days after the passage of this bill. Guidelines shall take into consideration:</p> <ul style="list-style-type: none"> cost of metering and submetering extent to which metering and submetering will result in increased potential for energy management, energy savings, and energy efficiency improvement; and cost and energy savings due to utility contract aggregation measurement and verification protocols of the Department of Energy <p>Within six months after guidelines are established, each agency shall submit a report to the Secretary of Energy with a plan describing how the agency will implement these requirements.</p> <p><u>Federal Building Performance Standards</u></p> <p>Revises the standards of the <i>Energy Conservation and Production Act</i> to utilize the provisions of the 2000 International Energy Conservation Code.</p> <p>Requires that new commercial and multifamily high rise residential buildings be constructed to achieve the EnergyStar® building energy performance ratings or energy consumption levels at least 30 percent below those of the most recent ASHRAE Standard 90.1, whichever results in the greater increase in energy efficiency.</p> <p>Requires that new residential buildings (other than those described above) be constructed to achieve the EnergyStar® building energy performance ratings or achieve energy consumption levels at least 30 percent below the requirements of the most recent version of the International Energy Conservation Code, whichever results in the greater increase in energy efficiency.</p> <p>Requires application of sustainable design principles to the siting, design, and construction of all new and replacement buildings.</p> <p>Requires that each agency's annual budget request and report submitted by each Federal agency required by the <i>National Energy Conservation Policy Act</i> shall include a list of all</p>			

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	<p>new Federal buildings and a statement regarding whether the buildings meet or exceed the revised standards, including a monitoring and commissioning report that is in accordance with the measurement and verification protocols of the Department of Energy.</p> <p>Directs the Department of Energy to develop in cooperation with the Environmental Protection a Federal energy-labeling program for new buildings that exceed the revised standards (see revised Federal building Performance Standards above) by 15 percent or more.</p> <p><u>Federal Procurement of Energy Efficient Products</u></p> <p>Requires that all Federal agencies procure EnergyStar® products or FEMP-designated products, unless an EnergyStar® or FEMP-designated product is not cost effective over the life cycle of the product, or EnergyStar® or FEMP-designated product is not reasonably available.</p> <p>Directs all agency lead procurement officials to incorporate into procurement specifications for energy efficient products criteria for energy efficiency that are consistent with criteria for rating EnergyStar® and FEMP-designated products.</p> <p>Requires that all EnergyStar® and FEMP-designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency.</p> <p>Directs the Secretary of Energy and the Administrator of the Environmental Protection Agency to expedite the process of designating EnergyStar® products; DOE will also designate a standard for electric motors of 1 to 500 horsepower and agencies shall select only motors that meet the standard.</p> <p><u>Repeal of the Energy Savings Performance Contract Sunset</u></p> <p>Repeals Section 801 of the <i>National Energy Conservation Policy Act</i>.</p> <p><u>Energy Savings Performance Contract Definitions</u></p> <p>Amends the <i>National Energy Conservation Policy Act</i> to include the following definitions:</p> <p><i>Energy savings</i> – a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing Federally owned building or other Federally owned facilities as a result of the lease or purchase of operating equipment, improvements, altered operation and maintenance or technical services; the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a Federally owned building or other Federally owned facilities; or the increased efficient use of existing water sources.</p> <p><i>Energy savings contract or energy savings performance contract</i> – a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.</p>			

Number	Short title	Date	Sponsor	Status
	<p><i>Energy or water conservation measure</i> – an energy conservation measure or a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities or other related activities.</p> <p><u>Review of Energy Savings Performance Contract Program</u></p> <p>Requires that within 180 days after enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. The Secretary shall also identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. Secretary shall report these findings to the House Committee on Energy and Commerce and the Senate Committee on Energy and Natural Resources.</p> <p><u>Federal Energy Bank</u></p> <p>Requires the establishment of a Federal Energy Bank, which shall make loans of amounts to any Federal agency that submits an application in order to pay for the:</p> <ul style="list-style-type: none"> • costs of an energy or water efficiency project, or a renewable or alternative energy project for a new or existing Federal building; • costs of an energy metering plan and metering equipment installed pursuant to section 543 (e) or for the purpose of verification of the energy savings under an energy savings performance contract; • costs, at the time of contracting, of cofunding an energy savings performance contract (including a utility energy service agreement) in order to shorten the payback period of the project that is the subject of the energy savings performance contract; agencies shall not submit a project for which ESPC funding is available and is acceptable to the Federal agency under title VIII. <p>Federal agencies shall repay the principal amount of a loan plus interest at a rate determined by the President; the Secretary may waive interest payments</p> <p>Subject to the availability of appropriations and the repayment of funds, the Secretary of the Treasury shall deposit in the Bank, an amount equal to \$250 million in FY 2003 and each fiscal year thereafter, the Secretary shall invest such portion of the Bank and only on interest-bearing obligations of the U.S.</p> <p>Federal agencies may not use more than ten percent of the loan to pay for administration and proposal development. Not more than 25 percent of the loan shall be used for renewable energy and alternative energy projects.</p> <p>Requires that the Secretary make loans for projects that are:</p> <ul style="list-style-type: none"> • technically feasible • cost-effective using life cycle cost methods 			

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	<ul style="list-style-type: none"> • inclusive of a measurement and management component based on the measurement and verification protocols of the Department of Energy to commission energy savings for new and existing Federal facilities • capable of monitoring and improving energy efficiency management at existing Federal facilities • capable of verifying energy savings under an energy savings performance contract • renewable energy or alternative energy projects with a simple payback of not more than 15 years; or other projects that have a simple payback period of not more than ten years <p>Priority will be given to projects that are a component of a comprehensive energy management project in a Federal facility and are designed to significantly reduce energy use.</p> <p>Requires that not later than one year after the completion of the installation of a project (and annually thereafter) that has a cost of more than \$1 million, a Federal agency shall submit to the Secretary a report that states whether the project meets or fails to meet the energy savings projections for the project and for each project that fails to meet the energy savings projections, states the reasons for the failure and describes proposed remedies.</p> <p><u>Energy and Water Savings Measures in Congressional Buildings</u></p> <p>Directs the Architect of the Capitol to develop, update, and implement a cost-effective energy conservation and management plan for all facilities administered by Congress to meet energy performance requirements for Federal buildings and submit the plan to Congress no later than 180 days after the enactment of this bill.</p> <p>Requires that the plan include a description of the life-cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects; a schedule of energy surveys to ensure complete surveys of all Congressional buildings every five years to determine the cost and payback period of energy and water conservation measures; a strategy for installation of life cycle cost effective energy and water conservation measures; the results of a study of the costs and benefits of installation of submetering in Congressional buildings; and information packages and how-to guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.</p> <p>Permits the Architect to contract with nongovernmental entities and use private sector capital to finance energy conservation projects and meet energy performance requirements.</p> <p>Permits the Architect to use innovative contracting methods that will attract private sector funding for the installation of energy efficient and renewable energy technology, such as energy savings performance contracts.</p> <p>Requires that the Architect ensure that state-of-the-art energy efficiency and renewable energy technologies are used in the construction and design of the Visitor Center and include an exhibit in the visitor center on the energy efficiency and renewable energy measures used in Congressional buildings.</p>			

Number	Short title	Date	Sponsor	Status
	<p>Requires that the Architect submit to Congress an annual report Congressional energy management and conservation programs with information on energy expenditures and savings estimates for each facility, energy management and conservation projects, and future priorities to ensure compliance.</p> <p><u>Increased Use of Recovered Materials</u></p> <p>Within one year of enactment of the Act, directs the Secretary of Transportation and other Federal agencies to purchase cement and concrete incorporating recovered material in cement and concrete projects.</p> <p>The Environmental Protection Agency and the Department of Transportation in cooperation with the Department of Energy shall conduct a study to determine the extent current procurement requirements, when fully implemented may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement in cement and concrete projects.</p> <p><i>Non-FEMP provisions in the bill will be highlighted in this month's update of the Legislative Database, which will occur later this week.</i></p>			

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IV. ADMINISTRATION INITIATIVES

New Nomination On May 1, President sent to the Senate his nomination of Kyle McSlarrow, to fill the position of position of Deputy Secretary of Energy.

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V. HEARINGS SCHEDULE

HOUSE – COMMITTEE ON APPROPRIATIONS

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/Location
Week of May 6 – Committee on Appropriations (NEW)	Bill Young (R/FL)	Mark Up: FY 2002 Supplemental Appropriations of \$30 billion	N/A	TBA

HOUSE – AUTHORIZATIONS/OVERSIGHT

There are no hearings of interest to report.

SENATE – COMMITTEE ON APPROPRIATIONS

There are no hearings of interest to report.

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SENATE – AUTHORIZATIONS/OVERSIGHT

Date/Committee	Chair	Hearing Title/Issues	Witnesses	Time/Location
<i>May 8</i> – Committee on Energy and Natural Resources <i>(NEW)</i>	Jeff Bingaman (D/NM)	<i>Hearing</i> – To receive testimony on the nomination of Guy Caruso to be Administrator of the Energy Information Administration	Guy Caruso	9:30 a.m. Room 366 Dirksen Office Building

CONFERENCE COMMITTEE NEGOTIATIONS/FLOOR VOTES

Date	Legislation
<i>May 7-9</i> – Senate <i>(NEW)</i>	<i>Debate and Vote – Conference Report H.R. 107 - Unnumbered (HR. 2646) - Agriculture, Conservation, and Rural Enhancement Act of 2001.</i>

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